

// A special meeting of the Council of the City of Lynchburg, recessed from September 14, was held on the 28th day of September, 2004, at 1:00 P.M., Second Floor Training Room, Carl B. Hutcherson, Jr., President, presiding. The purpose of the meeting was to conduct a work session regarding several items. The following Members were present:

Present: Dodson, Gillette, Helgeson, Seiffert, Hutcherson 5

Absent: Foster, Johnson 2

// Downtown Executive Director Teri Proffitt along with Don Pendleton, former Chair of the Capital Grant Review Committee, provided a progress report regarding the allocation of the \$50,000 City Council appropriated for a capital grants program. Mr. Pendleton explained that the program, which was administered through Lynch's Landing, was to provide grants up to \$5,000 each for capital improvements to businesses impacted by City construction projects. City Manager Kimball Payne stated that due to the success of the program, Economic Development Business Relations Manager Brian Thrower will be exploring options with the Industrial Development Authority regarding establishing a similar program of offering incentives to small businesses.

// Council Member Johnson arrived at 1:20 p.m. during discussion of the 2005 Legislative Agenda.

// Legislative Liaison Linda McMinimy provided an overview regarding the 2005 Legislative Agenda. City Council agreed that a formal meeting with area legislators was not needed this year due to the minor changes from last year's legislative agenda, and asked that the City Manager and Mayor present the 2005 Legislative Agenda to the area legislators. On motion of Council Member Dodson, seconded by Council Member Seiffert, Council by the following recorded vote adopted the 2005 Legislative Agenda:

Ayes: Dodson, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 6

Noes: 0

Absent: Foster 1

// Tim Mitchell, Director of Utilities, presented an overview regarding the City's water system, current and future demands on the system, and the status of the water purchase contracts with Amherst, Campbell and Bedford Counties. City Council discussed the various options regarding the contracts and concurred with staff's recommendation that the water purchase contracts with Amherst, Campbell and Bedford Counties be renewed for five years under the same terms and conditions. Council Member Seiffert expressed concern that the water quality for City residents goes down as more water is supplied to the counties to fuel their growth and suggested that the City should receive some type of compensation, i.e., portion of real estate taxes, for any new industry or shopping center. City Manager Kimball Payne stated that a look at the entire region's water supply may be needed.

// Tim Mitchell, Director of Utilities, stated that the Campbell County Utilities and Service Authority has requested that the City enter into a Memorandum of Understanding for the purchase of an additional 140,000 gallons per day of peak flow capacity in the Burton Creek Interceptor. Mr. Mitchell explained that this would be done in accordance with the terms of the Regional Sewage Treatment Plant Agreement. Council Member Seiffert reiterated earlier comments regarding the City being able to receive some type of

compensation in that the additional flow is needed for a proposed new shopping center. In response to Council questioning, Mr. Mitchell stated that no decision has been made as to which locality will be supplying the water and sewer to the proposed new shopping center. In response to Council Member Gillette's question, City Manager Kimball Payne stated that the request before City Council is for the purchase of additional capacity in the City's sewer system as per the Regional Sewage Treatment Plant Agreement. Following discussion, and on motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-04-125, as presented, authorizing the City Manager to execute a Memorandum of Understanding with the Campbell County Utilities and Service Authority for the sale of 140,000 gallons per day of additional peak capacity in the Burton Creek Interceptor:

Ayes: Dodson, Gillette, Johnson, Hutcherson

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Noes: Helgeson, Seiffert

2

Absent: Foster

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// Greater Lynchburg Transit Company (GLTC) General Manager Mike Carroll provided an overview regarding proposed changes to the City Code to reflect the current organizational relationship between GLTC and the City. Mr. Carroll noted that this item is scheduled on the 5:00 p.m. agenda for formal action.

// Mr. Carroll informed that the GLTC Board of Directors is recommending that \$33,035 in FY 2004 surplus funds be used to pay for asphalt repairs at the Plaza Transfer Station with the balance to be returned to the City's "Reserve to Support Transit Operations" Fund. City Council concurred with the recommendation.

// Mr. Carroll provided information regarding GLTC's relationship with Greyhound regarding operation of the local bus station. Mr. Carroll explained that it is the intent of GLTC to operate the station without additional subsidy and to ensure that Greyhound revenues cover the operating costs of the facility.

// City Manager Kimball Payne along with City Planner Tom Martin and Director of Social Services Mark Johnson presented information regarding an earlier request for changing the City's zoning ordinance to allow child care centers to provide day care for twelve or less children in a residential neighborhood as a use permitted by right. Mr. Payne explained that earlier this year the City's Internal Auditor discovered that eleven in-home child care providers that were licensed by the state did not have local business licenses and did not comply with the City's current zoning ordinance which requires a conditional use permit for child care centers in residential districts that serve more than five children. Mr. Payne went on to say that staff has reasoned that since these centers were already complying with state requirements, and since they had been operating in residential neighborhoods for up to seven years with no apparent problems, that there was no need to make them go through the months-long process and pay the fees to get a conditional use permit. In response to questioning, Mr. Johnson explained that the home-based care centers are typically more flexible than the centers run by institutions like churches and non-profits in that they are more willing to care for sick children or to care for children during hours outside the traditional

workday. Mr. Johnson also noted that the costs associated with the conditional use permit process could present an obstacle to some of these providers that would put them out of business. Several Council Members expressed concern regarding changing the zoning ordinance to accommodate the eleven current child care centers that are not in compliance, and that such action would essentially allow a potentially high-impact business to operate in residential neighborhoods without the neighbors having a say on how such a business would impact the neighborhood. Council Member Gillette suggested that if quality child care centers were a priority to the City, then City Council might want to consider setting aside funding during the budget process for grants to be used as start up costs that would be available to child care centers.

Council Member Gillette went on to say that if the fees associated with the conditional use permit process was an obstacle to the current eleven child care centers, then City Council may want to consider allocating monies to offset those costs in addition to giving those centers a reasonable amount of time to go through the conditional use permit process. Several Council Members asked for more time to consult with the City Attorney to determine what options are available to accommodate the eleven care centers that are out of compliance without eroding protections against businesses in residential neighborhoods. City Council asked that this item be added to the October work session agenda.

// City Engineer Lee Newland presented a revised report/resolution regarding the cost to add six additional skyboxes at the City Stadium. On motion of Council Member Dodson, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-04-126, as presented, amending the FY 2004 Stadium Fund budget and appropriating \$644,369 to the Stadium Fund, which would include a temporary loan no greater than \$175,894 from the General Fund, for the purpose of building six additional skyboxes at the City Stadium:

Ayes: Dodson, Gillette, Helgeson, Johnson, Seiffert, Hutcherson	6
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Noes:	0
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Absent: Foster	1
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// Financial Services Director Mike Hill provided a brief overview regarding minor changes to the City's Financial Management Policies. On motion of Mayor Hutcherson, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-04-127, as presented, reaffirming the City's Fund Balance, Debt Management, Budget and Investment Financial Management Policies as revised:

Ayes: Dodson, Gillette, Helgeson, Johnson, Seiffert, Hutcherson	6
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Noes:	0
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Absent: Foster	1
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// During roll call, Mayor Hutcherson informed that he has received a call from a citizen who lives on Dandridge Drive regarding water and sewer backing up into her basement. City Manager Kimball Payne stated he would have staff look into the situation. At the request of Mayor Hutcherson, City Council agreed that he and Council Member Johnson could attend the National League of Cities conference in December.

// On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote elected to hold a closed meeting to consider a personnel matter and acquisition of real property for a public purpose because discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City pursuant to Section 2.2-3711(A)(1) and (3), respectively, of the Code of Virginia, 1950, as amended:

Ayes: Dodson, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

6

Noes: Foster

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// The meeting was re-opened to the public.

// Council Member Helgeson made the following motion:

WHEREAS, the Council of the City of Lynchburg has convened a closed meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by City Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lynchburg certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by Council.

The Motion was seconded by Council Member Seiffert, and Council by the following recorded vote adopted the motion:

Ayes: Dodson, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes: Foster

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// The meeting was adjourned at 4:55 p.m.

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Clerk of Council

// A regular meeting of the Council of the City of Lynchburg was held on the 28th day of September, 2004, at 5:00 P.M. in the Council Chamber, City Hall, Carl B. Hutcherson, Jr., President, presiding. Council Member Dodson gave the Invocation. The Pledge of Allegiance was led by the Police Officer in attendance. The following Members were present:

Present: Dodson, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 6

Absent: Foster 1

// Copies of the minutes of the September 14 (two meetings), 2004 meetings, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Dodson, seconded by Council Member Seiffert, Council by the following recorded vote approved the minutes as presented:

Ayes: Dodson, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 6

Noes: 0

Absent: Foster 1

// In the matter of Police - General, Resolution #R-04-110 amending the FY 2005 City/Federal/State Aid Fund Budget and appropriating \$1,439, fully reimbursable from interest earned on grant funds, for the funding of law enforcement equipment and services, laid over from the September 14, 2004 meeting, was again presented and read, and on motion of Council Member Dodson, seconded by Council Member Seiffert, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 6

Noes: 0

Absent: Foster 1

// In the matter of Police - General, Resolution #R-04-111 amending the FY 2005 City/Federal/State Aid Fund Budget and appropriating \$2,500, fully reimbursable, for motor vehicle strike force check points, laid over from the September 14, 2004 meeting, was again presented and read, and on motion of Council Member Dodson, seconded by Council Member Seiffert, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 6

Noes: 0

Absent: Foster 1

// In the matter of Police – General, Resolution #R-04-112 amending the FY 2005 City/Federal/State Aid Fund Budget and appropriating \$178,917, fully reimbursable, for Homeland Security efforts for all local law enforcement agencies within the boundaries of the City of Lynchburg, laid over from the September 14, 2004 meeting, was again presented and read, and on motion of Council Member Dodson, seconded by Council Member Seiffert, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 6

Noes: 0

Absent: Foster 1

// In the matter of Police/Fire/Public Works - General, Resolution #R-04-113 amending the FY 2005 City/Federal/State Aid Fund Budget and appropriating \$220,916, fully reimbursable, for State Homeland Security efforts for the Police, Fire and Public Works Departments, laid over from the September 14, 2004 meeting, was again presented and read, and on motion of Council Member Dodson, seconded by Council Member Seiffert, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Gillette, Helgeson, Johnson, Seiffert, Hutcherson	6
Noes:	0
Absent: Foster	1

// In the matter of Budget 2005, Ordinance #O-04-118 amending the FY 2005 Operating Budgets for the General, Water, Sewer, Asset Forfeiture, Community Development Block Grant, Regional Juvenile Detention Center, Technology, City/Federal/State Aid and City Capital Projects Funds to reflect the carry forward of appropriations for ongoing activities that were not expended in FY 2004, to appropriate funds for grants, and other necessary expenditures since the FY 2005 budget was adopted, laid over from the September 14, 2004 meeting, was again presented and read, and on motion of Council Member Dodson, seconded by Council Member Seiffert, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Gillette, Helgeson, Johnson, Seiffert, Hutcherson	6
Noes:	0
Absent: Foster	1

// In the matter of Budget 2005, Resolution #R-04-119 amending the FY 2005 Sewer Fund Capital Projects Budget to appropriate \$1,253,800 from proceeds of an Environmental Protection Agency (EPA) Grant in order to fund Combined Sewer Overflow projects, laid over from the September 14, 2004 meeting, was again presented and read, and on motion of Council Member Dodson, seconded by Council Member Seiffert, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Gillette, Helgeson, Johnson, Seiffert, Hutcherson	6
Noes:	0
Absent: Foster	1

// In the matter of City Code/Transit Company, City Council Report #8 regarding amending the City Code relating to the operation of intraurban buses within the City was considered. City Manager Kimball Payne noted that City Council discussed this matter at its earlier work session. On motion of Council Member Johnson, seconded by Council Member Dodson, Council by the following recorded vote adopted Ordinance #0-04-128, as presented, amending the City Code relating to the operation of intraurban buses within the City:

Ayes: Dodson, Gillette, Helgeson, Johnson, Seiffert, Hutcherson	6
Noes:	0
Absent: Foster	1

// In the matter of City Code/Community Planning - General, City Council Report #9 regarding amending Sections 35.1-11.4 and 35.1-54 of the City Code concerning child care centers was considered. City

September 28, 2004

Manager Kimball Payne noted that City Council discussed this matter at its earlier work session. City Council deferred action regarding this matter and asked that it be scheduled for the October 26 work session for further discussion.

// The meeting was recessed at 5:05 P.M. to October 12, at 5:00 P.M., to conduct another work session regarding the rezoning petition of Laird Lynchburg, LLC.

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Clerk of Council